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October 8, 2003

File No: 56490.000002

Application Number : 09/441,204 Confirmation No.: 3995  
Applicant : David VERCHERE.  
Filed : November 16, 1999  
Title : METHOD AND SYSTEM FOR ACQUIRING BRANDED PROMOTIONAL  
PRODUCTS  
TC/Art Unit : 3625  
Examiner: : Robert M. Pond

Docket No. 56490.000002  
Customer No. 21967

**MAIL STOP NON-FEE AMENDMENT**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

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Technology Center 2600

Transmitted herewith is a Response to Office of July 9, 2003 in the above-identified application. Fees have been calculated as shown below:

CLAIMS AS AMENDED						
	Claims Remaining After Amendment	Highest Number Previously Paid For	Extra	Rate		Amount
				Large Entity	Small Entity	
Number of Claims in Excess of 20	12	20	0	\$ 18.00	\$ 9.00	\$ 0.00
Independent Claims in Excess of 3	3	4	0	\$ 86.00	\$ 43.00	\$ 0.00
First Presentation of Multiple Dependent Claims				\$ 290.00	\$ 145.00	\$ 0.00
Extension Fee: a) One Month				\$ 110.00	\$ 55.00	\$ 0.00
b) Two Months				\$ 420.00	\$ 210.00	\$ 0.00
c) Three Months				\$ 950.00	\$ 475.00	\$ 0.00
d) Four Months				\$1480.00	\$ 740.00	\$ 0.00
e) Five Months				\$2010.00	\$1005.00	\$ 0.00
Other:						\$ 0.00
<b>TOTAL FEE DUE</b>						\$ 0.00

- ☒ No additional fee is required.  
☐ A check in the amount of \$ \_\_\_\_\_ is attached.  
☐ Charge \$ \_\_\_\_\_ to Deposit Account No. 50-0206.

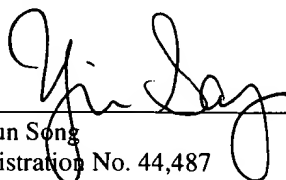
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**GROUP 3600**

October 8, 2003  
Page 2

☒ Charge any additional fees or credit any overpayment to Deposit Account No. 50-0206.  
Small Entity Status Claim: ☐ is hereby requested. ☐ is of record in this application.

Respectfully submitted,

By:

  
\_\_\_\_\_  
Yisun Song  
Registration No. 44,487

YS/vrp



3/ Affidavits  
enclosed  
PATENT

Attorney Docket No. 56490.000002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of :

David VERCHERE

Serial No.: 09/441,204

Filed: November 16, 1999

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) Group Art Unit: 3625  
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) Examiner: Robert M. Pond  
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GROUP 3600

For: METHOD AND SYSTEM FOR ACQUIRING  
BRANDED PROMOTIONAL PRODUCTS

**SUBMISSION OF DECLARATION PURSUANT TO 37 C.F.R. § 1.131**

Box: AF  
Director of the United States  
Patent and Trademark Office  
Washington, D.C. 20231

Sir:

In response to the Advisory Action mailed February 10, 2003, Applicant is submitting a revised Declaration pursuant to 37 C.F.R. § 1.131. While Applicant respectfully disagrees with the Advisory Action's allegations that due diligence has not been established, Applicant is submitting additional information to further support Applicant's original showing of due diligence.

In the Office Action mailed on August 27, 2002, the Examiner rejects claims 10 and 20 under 35 U.S.C. § 103(a) as being unpatentable over PR Newswire articles ("Fulfilling the Promise of the Internet at Starbelly.com," dated **September 22, 1999** and "Chase Capital Partners and Flatiron Partners Invest in Internet Company Starbelly.com," dated **August 25, 1999**) in view of Business Wire articles ("Ventures Funds Online Business-to-Business

Marketplace, BizBuyer.com; Next-Generation Bidding System Matches Small Business with Qualified Vendors” dated **June 22, 1999** and “BizBuyer.com Unveils Distinctive New Brand Identity; Leading Business-to-Business Site Launches New User Interface and Comprehensive Marketing Effort,” dated **September 22, 1999**).

The Examiner rejects claims 21, 23, 26 and 28 under 35 U.S.C. § 103(a) as being unpatentable over PR Newswire articles (“Fulfilling the Promise of the Internet at Starbelly.com,” dated **September 22, 1999** and “Chase Capital Partners and Flatiron Partners Invest in Internet Company Starbelly.com,” dated **August 25, 1999**).

The Examiner rejects claims 22 and 27 under 35 U.S.C. § 103(a) as being unpatentable over PR Newswire articles (“Fulfilling the Promise of the Internet at Starbelly.com,” dated **September 22, 1999** and “Chase Capital Partners and Flatiron Partners Invest in Internet Company Starbelly.com,” dated **August 25, 1999**) in view of Graham article “The Remaking of the Distribution Chain,” dated **August 1999**.

The Examiner rejects claims 24 and 29 under 35 U.S.C. § 103(a) as being unpatentable over PR Newswire articles (“Fulfilling the Promise of the Internet at Starbelly.com,” dated **September 22, 1999** and “Chase Capital Partners and Flatiron Partners Invest in Internet Company Starbelly.com,” dated **August 25, 1999**) in view of M2Presswire article (“Dell and the Internet go from Strength to Strength,” dated July 7, 1998).

The Examiner rejects claims 25 and 30 under 35 U.S.C. § 103(a) as being unpatentable over PR Newswire articles (“Fulfilling the Promise of the Internet at Starbelly.com,” dated **September 22, 1999** and “Chase Capital Partners and Flatiron Partners Invest in Internet Company Starbelly.com,” dated **August 25, 1999**) in view of Business Wire articles (“Ventures Funds Online Business-to-Business Marketplace, BizBuyer.com; Next-Generation Bidding

System Matches Small Business with Qualified Vendors” dated **June 22, 1999** and “BizBuyer.com Unveils Distinctive New Brand Identity; Leading Business-to-Business Site Launches New User Interface and Comprehensive Marketing Effort,” dated **September 22, 1999**).

Applicant respectfully disagrees that the asserted combination of references renders Applicant’s inventions unpatentable. The various combinations of references fail to disclose the claimed combination of limitations as set forth by Applicant. Further, the references fail to provide any teaching or motivation to one of ordinary skill in the art to combine the references. In an effort to expedite prosecution, Applicant is submitting a declaration pursuant to 37 C.F.R. § 1.131 to establish prior invention.

Applicant submits herewith (attached as Appendix A), pursuant to 37 C.F.R. § 1.131, the declaration of Applicant David Verchere and corroborating declarations of Lynne Verchere (attached as Appendix B) and Jeremiah J. Sheehan (attached as Appendix C) establishing conception. As stated in M.P.E.P § 715.07, conception is the mental part of the inventive act, but it must be capable of proof, as by drawings, complete disclosure to another person, etc. Applicant submits that the idea of the invention as recited in the pending claims was fully and completely disclosed to Lynne Verchere and Jeremiah J. Sheehan.

Applicant submits herewith documentation to further support conception and to establish due diligence from conception to reduction to practice, in this case, the filing of the patent application. In particular, Applicant submits Appendix D which is a screen shot of an electronic folder containing at least some of the electronic documentation supporting the inventions as claimed by the pending claims.

Appendix E is a document entitled "What is CG 4-0" having a modified date of June 20, 1999 (as shown in Appendix D) and a document date of June 15, 1999. The content of Appendix E clearly discloses the inventions as recited by the pending claims (see pages 8-10, 12-15, 23-29, 32-33) and further provides support of the conception of the claimed invention from at least prior to June 22, 1999.

Appendix F is a document entitled "execsummary" having a modified date of July 9, 1999 (as shown in Appendix D) and further shows due diligence to at least July 9, 1999. Applicant submits that from at least prior to June 20, 1999 to at least July 8, 1999, Applicant diligently worked on the "execsummary" document of Appendix F.

Appendix G is a document entitled "The Business Plan 9-10" having a modified date of August 10, 1999 (as shown in Appendix D) and a document date of August 5, 1999. The content of Appendix G clearly discloses the inventions as recited by the pending claims (see pages 12-24) and further provides support of due diligence from at least prior to July 9, 1999 to at least August 10, 1999. Applicant submits that from at least prior to July 9, 1999 to at least August 10, 1999, Applicant diligently worked on "The Business Plan 9-10" document.

Appendix H is a document entitled "CG execsum" having a modified date of August 13, 1999 (as shown in Appendix D). This document further provides support for the subject matter of Applicant's claimed inventions. Applicant submits that from at least prior to August 10, 1999 to at least August 13, 1999, Applicant diligently worked on "CG execsum" document.

Appendix I is a document entitled "exec sum final" having a modified date of August 19, 1999 (as shown in Appendix D). This document further provides support for the subject matter of Applicant's claimed inventions. Applicant submits that from at least prior to August 13, 1999 to at least August 19, 1999, Applicant diligently worked on "exec sum final" document.

Appendix J is a document entitled "Business Plan" having a date of August 20, 1999. The content of Appendix J clearly discloses the inventions as recited by the pending claims (see pages 12-25 and 32-37) and further provides support of due diligence from at least prior to August 19, 1999 to August 20, 1999. Applicant submits that from at least prior to August 19, 1999 to at least August 20, 1999, Applicant diligently worked on "Business Plan" document.

Appendix K is a document entitled "Exchange 1999 Development Plan" having a date of September 28, 1999. The content of Appendix K clearly discloses the inventions as recited by the pending claims (see pages 3 and 13-32) and further provides support of due diligence from at least prior to August 20, 1999 to at least September 28, 1999. Applicant submits that from at least prior to August 20, 1999 to at least September 28, 1999, Applicant diligently worked on the "Exchange 1999 Development Plan" document.

Appendix L provides correspondence documentation from patent attorneys at Hunton & Williams from September 1999 to November 1999 regarding the preparation of the patent application directed to the subject matter of the pending claims.

Appendix M provides a copy of a post card verifying the filing of the patent application on November 16, 1999.

For additional support of continued due diligence from at least June 20, 1999 to at least November 18, 1999, Applicant directs the Examiner's attention to Appendix D, which provides a list of documents related to the inventions as claimed by Applicant and further exhibits clear proof of due diligence.

Applicant submits these declarations of Appendix A-C together with the documentation of Appendix D-M under Rule 131 for the purpose of overcoming the above identified articles by establishing the date of invention of the subject matter of claims 10, 20-30 prior to at least **June**

**22, 1999**, the effective date of one of the Business Wire articles. By overcoming the June 22, 1999 Business wire reference, PR Newswire articles dated September 22, 1999 and August 25, 1999, Business Wire article dated September 22, 1999, Graham article dated August 1999, and Business Wire article dated October 6, 1999 cannot be considered prior art and the rejections based on these articles should be withdrawn.

In the alternative, Applicant submits these declarations of Appendix A-C together with the documentation of Appendix D-M under Rule 131 for overcoming the above identified articles by establishing the date of invention of the subject matter of claims 10, 20-30 prior to at least **August 1, 1999**. By overcoming the August 1, 1999 date, PR Newswire articles dated September 22, 1999 and August 25, 1999, Business Wire article dated September 22, 1999, Graham article dated August 1999 and Business Wire article dated October 6, 1999 cannot be considered prior art and the rejections based on these articles should be withdrawn.

Further, in the alternative, Applicant submits these declarations of Appendix A-C together with the documentation of Appendix D-M under Rule 131 for the purpose of overcoming the above identified articles by establishing the date of invention of the subject matter of claims 10, 20-30 prior to at least **September 22, 1999**. By overcoming the September 22, 1999 date, PR Newswire article dated September 22, 1999, Business Wire article dated September 22, 1999 and Business Wire article dated October 6, 1999 cannot be considered prior art and the rejections based on these articles should be withdrawn.

The declaration of Applicant, David Verchere, as supported by corroborating declarations and documents, clearly demonstrates a conception of the invention which is the subject matter of this application prior to at least June 22, 1999, the effective date of one of the identified articles, coupled with due diligence from the conception date to the filing of the application.